



What We Have Learned and What We Must Do!

Honorable Steve Leifman, Associate Administrative Judge, Miami-Dade County Court, 11th Judicial Circuit of Florida

WHAT WE HAVE LEARNED

Approximately **1.5 million** individuals with serious mental illnesses are arrested in over 2 million incidents each year. **Jails have become the de facto mental health and substance use disorder care systems.**

Those with serious mental illnesses stay longer in jail and in more restrictive settings than those without serious mental illnesses for similar charges. Most individuals with serious mental illnesses in custody have horrific histories of trauma, often from childhood.

Access to care for justice-involved individuals with serious mental illnesses is **often scarce or non-existent.** Communities lack the capacity to treat the most acutely ill.

Over 10 million individuals with serious mental illnesses **visit emergency room departments annually**, often resulting in psychiatric boarding for long periods of time. Due to primary health issues, they are also more likely to be admitted to a hospital than someone without a serious mental illness and often without insurance.

Judges lack access to necessary information **to make informed decisions** about those with mental illnesses, substance use disorders and/or co-occurring disorders.

Adversarial caseflow management systems for individuals with behavioral health needs take too long and do not result in treatment and recovery, nor do they improve public safety or reduce recidivism.

Problem-solving and treatment courts are a proven, effective intervention for high-risk, high-need individuals; but **for others with significant behavioral health needs, alternative tracks or approaches are more effective.**

Serious mental illnesses and the need for access to care impacts all court docket types — abuse and neglect, domestic relations, domestic violence, civil, landlord-tenant — in addition to criminal and juvenile delinquency dockets.

A **continuum of diversion options** is only available on a limited basis, and often **only when a judicial officer champions the need.**

Thousands of individuals are languishing in jails because of being adjudicated incompetent to stand trial but without restoration beds or facilities available. Restoration services are expensive and rarely address or improve an individual's mental health and well-being.

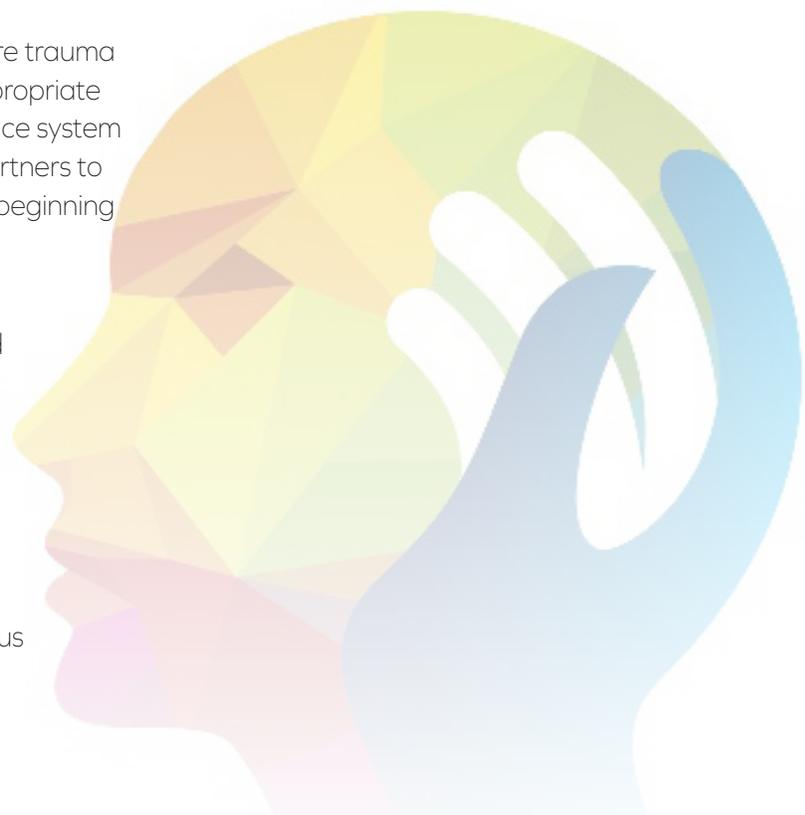
The **laws and systems** in place today **do not reflect modern science, medicine, and treatment.**

The **pandemic has exacerbated** many, if not all, of these challenges and deficiencies.

WHAT WE MUST DO

Using the convening authority of Chief Justices and state court leaders state by state, and community by community, state court leaders can and must encourage the implementation of a range of solutions:

- 1. Promote robust community health systems**, treatment and services minimizing justice system involvement.
- 2. Support model crisis response systems** and the new 988 to address the needs of people with serious mental illnesses instead of jailing individuals in crisis or tolerating psychiatric boarding of individuals in emergency rooms and departments.
- 3. Apply a population health model** to people with serious mental illnesses rather than applying a criminal justice solution to the needs of people with serious mental illnesses and substance use disorders.
- 4. Develop seamless systems of care** that include effective prevention, assessment and diagnosis, case management, psychotherapy, supportive housing, integrated treatment, meaningful day activities and supportive employment and increase capacity so that courts can access these services for justice involved individuals.
- 5. Develop coordinated community responses and a continuum of diversion** to treatment options and practices, from pre-arrest, pre adjudication to post adjudication programs.
- 6. Use validated screening tools** for all individuals at the time of their arrest throughout involvement in the justice system to identify those needing mental health and substance use disorder treatment and services.
- 7. Screen for trauma** and ensure trauma services are available for appropriate individuals in the criminal justice system and work with community partners to screen and treat for trauma beginning in middle school.
- 8. Promote person-centered approaches** to the estimated 70% of individuals with disorders in the courts rather than the traditional adversarial case-flow management response.
- 9. Limit the use of competency restoration** to the most serious offenses and divert others to treatment and recovery.



10. **Promote the increased capacity of state supreme court administrative offices** to lead improvement efforts to improve court and community responses to individuals with mental illnesses and coordinate with the executive and legislative branches of government and other governmental officials.
11. **Develop Centers of Excellence** in every state and territory and the District of Columbia to implement the use of newly developed research and promote the use of evidence-based practices for mental health and substance use disorder treatment and services in all courts and communities.
12. **Develop regional mental health diversion and treatment facilities** when treatment is difficult to access or when individuals have complex needs.
13. **Support efforts to address chronic behavioral health workforce shortages.**
14. **Align the work of the Task Force** with the significant work underway by national organizations and foundations and ensure our work is grounded in diversity equity and inclusion requirements.
15. **Ensure all judges and court personnel and others are educated and trained** about serious mental illnesses, substance use disorders, co-occurring disorders and trauma-informed and in required system responses.
16. **While undertaking major state court and community reforms, develop a national response and action plans** to address the myriad deficiencies in the current responses.

This report was developed and approved by the Education and Partnerships Work Group of the National Judicial Task Force to Examine State Courts' Response to Mental Illness in June 2021 and is pending action by the Task Force Executive Committee. Reactions, comments and suggestions to the report are welcome. It is anticipated that a final version of this report and related recommendations will be adopted and published by the Task Force prior to the Annual Meeting of the Conference of Chief Justices and Conference of State Court Administrators in August 2022.



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